



PATENT
Attorney Docket No. 10222.0001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Duane LANGENWALTER) Group Art Unit: 3679
Application No.: 10/797,410) Examiner: Michael P. Ferguson
Filed: March 10, 2004)
For: DECORATIVE FENCING) Confirmation No.: 4112
SYSTEM)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

DECLARATION OF PAUL L. GOSSLING

1. My name is Paul L. Gossling.
2. I am the President of Garden Zone, L.L.C. ("Garden Zone"), the assignee of U.S. Patent Application No. 10/797,410.
3. I have read and understand U.S. Patent Application No. 10/797,410, for a "Decorative Fencing System," invented by Duane Lagenwalter.
4. The decorative fencing system disclosed in U.S. Patent Application No. 10/797,410 has been embodied in a fencing system product manufactured and sold by Garden Zone under the product name "Empire Fence."
5. Features of the Empire Fence, which are also reflected in the claims of U.S. Patent Application No. 10/797,410 include a number of stakes, having internal sleeves, configured to be driven into the ground, a number of posts

configured to be inserted into the internal sleeves of the stakes, and to be held in place in the internal sleeves by friction, while still being removable, and a number of structural fencing components configured to be pivotably and removably attached to the posts. The diameter of the posts are slightly smaller than inner diameters of attaching rings on the structural fencing components. Furthermore, the inner diameters of the internal sleeves of the stakes are slightly larger than the diameters of the posts. Because of these diameters, the structural fencing components can be removed from the posts, and the posts can be removed from the stakes. For these reasons, the posts and structural fence components are interchangeable, and a wide variety of fence configurations can be assembled by the customer. After assembling one fence configuration, the customer can easily disassemble it, simply by removing the structural fencing components from the posts, and removing the posts from the internal sleeves of the stakes. Due to the interchangeability of the components, the customer can assemble a completely different fence configuration without removing the stakes from the ground. These steps can be performed any number of times, creating a nearly endless variety of fence configurations quickly and easily, according to the desires of the customer.

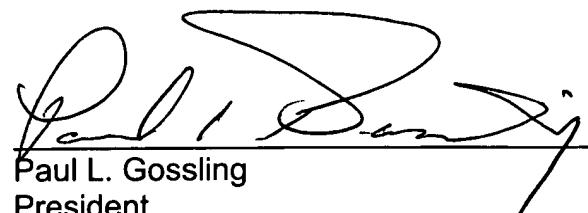
6. The Empire Fence, as manufactured and sold by Garden Zone, and as described and claimed in U.S. patent application 10/797,410, is very different from prior decorative fencing systems.
7. The Empire Fence has enjoyed significant commercial success since being introduced on the market in 2004. In the first year alone (2004), sales of the

Empire Fence exceeded \$575,000. In the second year (2005), sales of the Empire Fence exceeded \$3M. To date in 2006, Empire Fence sales have exceeded \$7M.

8. Garden Zone has received numerous comments from our distributors, and our customers, indicating that the surprising commercial success of the Empire Fence is due to its versatility, ease of assembly, ease of disassembly, and interchangeability of the posts and structural fencing components, in order to easily and quickly assemble different fence configurations.
9. Garden Zone's marketing department has received numerous comments from distributors and customers indicating that customers desired such an easy, versatile fencing system for many years, but that this need went unfulfilled until the Garden Zone's Empire Fence was introduced onto the market in 2004.
10. Garden Zone recently has learned from one of its distributors that a competitor of Garden Zone, Panacea Corp. has introduced a competing product onto the market which also has removable posts and structural fencing components. Our initial review of the Panacea fence product indicates that it is substantially the same as Garden Zone's Empire Fence, as disclosed and claimed in U.S. Patent Application No. 10/797,410.
11. I am aware that the willful false statements and the like are made punishable by fine or imprisonment or both, under § 101 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the

above application or any patent resulting thereof, and I hereby declare that
the foregoing statements of fact set forth above are true.

Date: 11-20-06



Paul L. Gossling
President
Garden Zone LLC